

“toll”, “EAS”, “CMRS”, “enhanced”, “interstate”, “intrastate”, “interLATA”, “intraLATA”, “intraMTA”, *etc.*, is fundamentally broken.

Moreover, the sustainability of universal service is jeopardized by the continued reliance on implicit support contained in both retail and intercarrier rates. For example, implicit support for universal service from interstate access is eroding as customers shift from traditional wireline long distance to wireless “one rate” plans and VoIP. Indeed, over the last four years, the interstate access minutes of the largest ILECs have fallen by more than 25 percent. Intrastate access minutes have probably fallen by a similar amount. Even the federal Universal Service Fund, although explicit, relies on an unstable funding base due to the same legacy regulatory classifications. The regulatory distinctions between “interstate” and “intrastate” services, and between “telecommunications services” and “information services” have become increasingly blurred with the proliferation of various service bundles. As a result, the federal USF assessment base is declining as customers shift to carriers and services that minimize contributions to USF.

As you are aware, ICF has proposed a *comprehensive* plan to move intercarrier compensation regulation and universal service from upheaval to stability. The plan will eliminate today’s multiple rate structures for intercarrier compensation, and replace them with a single unified rate structure. As for universal service, the plan eliminates implicit support from access rates and replaces today’s revenue-based USF contribution mechanism with a hybrid telephone number-/connection-based mechanism.

First, ICF is a carefully balanced plan, not favoring any particular industry segment. For example, the plan creates two new explicit support mechanisms, one for non-rural carriers and one for rural carriers, recognizing the cost and competitive differences between these entities. Second, the plan is comprehensive, addressing approximately \$10 B of intercarrier compensation revenues, compared with the less than \$1.2 B of High Cost Loop Support support. Finally, the plan reforms the federal USF contribution mechanism, which is essential, especially if the outcome of this preceding were to result in increases in rural high-cost support. I believe that these problems need to be fixed before spending resources to modify the existing High Cost programs.

Moreover, the ICF addresses many of the questions being asked of this and the other Panel. For example, the Plan calls for the continued calculation of ILEC support (other than LAS and HCM Support) to be based on ILEC embedded costs. Competitive ETCs will initially receive the same amount of support per eligible line as the ILEC, and remain unaffected by reductions in ILEC demand. Thereafter, the Competitive ETC's per line support will increase or decrease in the same proportion as the applicable ILEC revenue requirement. With regard to sales of exchanges, the Safety Valve for High Cost Loop Support is modified to enable the buyer to be eligible for Safety Valve Support immediately following the acquisition of rural exchanges. High Cost Loop Support is further modified with the elimination of the nationwide indexed cap, the unfreezing of the National Average Unseparated Loop Cost Per Working Loop, and the elimination of the different support percentages based on study area size. While ICF does not specifically

address the study area versus statewide averaging question or changes to the definition of Rural Telephone Company, surely the landscape will be significantly altered by ICF.

Another reason to tread slowly in this proceeding is that it is so highly dependent upon the outcome of the current *ETC Designation* docket. Let me explain why. The Joint Board, and this Panel, have been asked to recommend the cost standard for determining rural carrier support. The selection of the cost standard, whether it be forward-looking or embedded, is important for determining *portable* per-line support between ETCs. AT&T has strongly advocated, and the Commission has agreed, that forward-looking costs are the most competitively neutral measure of portable support. First, forward-looking costs are *technology neutral, reflecting the latest and most efficient* technology required to provide universal service. Second, forward-looking costs are not beholden to any particular carrier's costs of providing universal service, whether it be that of the incumbent or the competitive ETC. Yet, the record is overwhelming with criticisms of forward-looking costs, and the Synthesis Model in particular, with respect to its ability to adequately capture the wide disparity in rural study area costs. That is the crux of this investigation.

I, on the other hand, ask a different question. What if high-cost support were *not* portable? What if multiple ETCs in some rural study areas were determined *not* to be in the public interest? Then, for those study areas, it would not be necessary to replace the current embedded cost standard with one based on forward-looking costs. Why?

Because the support would *not be portable*. In the *ETC Designation* proceeding, AT&T

advocated the establishment of a benchmark of high-cost support per line, above which there would be a rebuttable presumption that a study area served by a rate-of-return regulated incumbent LEC will be limited to one ETC. For those study areas with per-line support above the benchmark, the support would be *de facto* not portable. Thus, there is no need to replace the cost standard in those study areas.

Certainly, this proceeding should wait for a Commission ruling in the *ETC Designation* docket, if for no other reason than to find out where deployment of resources to measure forward-looking costs are truly necessary.

In sum, I believe the Joint Board should proceed very cautiously with this investigation, and should certainly not require the devotion of resources, whether they be state or federal regulatory or industry resources, prior to implementation of the ICF plan and Commission order on the *ETC Designation* docket.

Thank you and I'll be glad to answer your questions.

# UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL COMMUNICATIONS COMMISSION

PUBLIC MEETING

ON HIGH-COST UNIVERSAL SERVICE SUPPORT  
FOR AREAS SERVED BY RURAL CARRIERS AND RELATED  
ISSUES

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Pages: 1 through 196  
Place: Nashville, TN  
Date: November 17, 2004

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FEDERAL COMMUNICATIONS COMMISSION

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FOR AREAS SERVED BY RURAL CARRIERS AND RELATED

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ISSUES

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PANEL I

13

SUPPORT IN AREAS SERVED BY RURAL CARRIERS AND

14

THE DEFINITION OF "RURAL TELEPHONE COMPANY"

15

PANEL 2

16

BASIS OF SUPPORT FOR CETCs AND TRANSFERRED

17

EXCHANGES

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November 17, 2004

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1                   A P P E A R A N C E S

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21    LEE SELWYN, ETI

22

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1 A P P E A R A N C E S (CONT'D)

2 PANELISTS II

3 SCOTT BERGS, MIDWEST WIRELESS

4 DAVID COLE, CENTURYTEL

5 GENE JOHNSON, FAIRPOINT COMMUNICATIONS

6 DENISE PARRISH, WYOMING OFFICE OF CONSUMER

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2                   COMMISSIONER ABERNATHY:  My name is  
3   Kathleen Abernathy.  I'm the FCC Commissioner.  
4   I want to welcome everybody to today's en banc  
5   where we are going to focus on possible  
6   reforms to the universal service support  
7   mechanism for high-cost rural areas.

8                   As all of us recognize, universal  
9   service is one of the cornerstones of the  
10  Federal Communications policy, and Congress  
11  did make it a top priority in the 1996 Act.  
12  So, it's vital for us to ensure that the  
13  program remains sustainable over the long  
14  haul, that it operates fairly and efficiently,  
15  and that we are addressing problems before  
16  they become critical.  So, what we're looking  
17  at today is how do you calculate and receive  
18  high-cost universal service support.

19                  And the first panel will address the  
20  question of whether high-cost support for  
21  rural carriers should continue to be based on  
22  embedded costs, should be transitioned to  
23  forward-looking costs as under the non-rural  
24  support mechanism, or are there other  
25  alternatives available.

1           I think the Commission concluded  
2   several times in the past that a  
3   forward-looking cost methodology was an  
4   optimal choice, but refrained from  
5   implementing such an approach based on  
6   concerns about the reliability of the cost  
7   models that you would have for rural areas.  
8   And I know many of those questions remain. At  
9   the Joint Board now, we are revisiting this  
10   fundamental question, and I'm sure that our  
11   panelists will give us a lot of insight into  
12   the strengths and weaknesses of the competing  
13   proposals. What we've found is that these en  
14   banc hearings provide a unique opportunity for  
15   us to hear from all parties side by side and  
16   kind of address many of the questions that  
17   come up.

18           The first panel also is going to  
19   address the definition of rural carrier. Some  
20   have argued that holding companies that own  
21   and operate rural telephone companies in  
22   different parts of the United States should be  
23   required to aggregate those operations into a  
24   single study area for purposes of calculating  
25   universal service support. And essentially

1     what we would be doing is treating these  
2     holding companies the same as non-rural  
3     carriers. So, our panelists are going to  
4     discuss the merits of the current approach,  
5     where we do not engage in that kind of  
6     analysis versus some of the potential  
7     alternatives.

8             Then we will have a short break. We  
9     will need a break. And then we'll move to our  
10    second panel where we're going focus primarily  
11    on the basis of support for competitive ETCs.  
12    Incumbent carriers have long argued that  
13    wireless carriers and other competitive ETCs,  
14    which is eligible telcom carriers, should  
15    receive their support based on their own  
16    embedded cost rather than on the incumbent's  
17    cost.

18            Competitors, by contrast, generally  
19    argue that incumbents and competitors must  
20    receive identical support, whether it's based  
21    on forward-looking costs, the lowest cost,  
22    provider's costs or any other measure. So,  
23    we're going to explore all of those arguments  
24    in detail.

25            And I think, in addition, the second

1 panel will address the FCC rule that limits  
2 support for acquired exchanges to the amount  
3 that the seller received, whether or not that  
4 should be revisited.

5           Now, before we get on to the  
6 substance of our first panel, I want to begin  
7 my offering a heartfelt thank you for all of  
8 our esteemed panelists for traveling to  
9 Nashville at their own expense to help the  
10 Joint Board grapple with these very, very  
11 important issues. You've given us advance  
12 presentation materials that are informative.  
13 We're going to be able to hear from you. We  
14 really do appreciate this; it's essential. We  
15 need your help as we struggle with these very  
16 complicated, complex issues. And so, thank  
17 you.

18           And I also want to take a moment to  
19 recognize two colleagues who are departing  
20 from public service and, as a result, from  
21 their participation on the Joint Board. It's  
22 Bob Rowe from Montana and Lila Jaber from  
23 Florida.

24           Bob and Lila have been part of  
25 the Joint Board since I joined a little over

1 three years ago. They have been instrumental in  
2 helping this Joint Board, I think, cover a  
3 tremendous amount of material, controversial,  
4 complex issues that folks said we'd never be  
5 able to reach consensus on and we did.

6                   Bob was instrumental in urging us  
7 to adopt this en banc approach, which we did.  
8 It's been very, very successful and helpful. I  
9 want to thank Bob for that, for his good humor,  
10 for his wit, his knowledge of the details. And  
11 it's going to be a loss that you will no longer  
12 be a part of the Joint Board and a loss, I  
13 think, for the public. But I wish you all the  
14 best in whatever you do next. I'm assuming we  
15 will continue to hear from you about your  
16 thoughts on many of these issues, so thank you  
17 for all your help.

18                   And Lila also has just been a  
19 tremendous asset on this Joint Board, very good  
20 at reconciling some of the issues between the  
21 larger states, the rural states and the non-rural  
22 states, and how you balance those concerns; a  
23 friend who has helped as we've struggled through  
24 some of these issues, and who has helped me  
25 understand the workings of NARUC.

1                   And I wish them both the best.  
2 I'm sorry they're leaving because we have a nice  
3 little family. I got very comfortable. The  
4 good news is that NARUC has nominated some  
5 excellent replacements in time for them to  
6 attend today's event. We've got Elliott Smith  
7 of Iowa. I want to thank Elliott for being  
8 willing to step into some issues and to deal  
9 with some very controversial and complex issues.  
10 They didn't tell you that, I'm sure. And Ray  
11 Baum of Oregon -- Ray, thank you, also.  
12                   They've both been nominated by  
13 NARUC. There will be a formal process through  
14 the FCC and then they will formally join the  
15 Board very soon.  
16                   And, finally, I want to give an  
17 opportunity to my colleagues to be able to talk

18 a little bit about what we're doing here and why  
19 we're exploring these issues. And then we'll  
20 move right to the first panel.

21                   My first colleague that I want to  
22 introduce here is via phone, and that's Jonathan  
23 Adelstein. He's a little bit busy meeting with  
24 some important folks today.

25                   Jonathan, are you on the phone?

1 COMMISSIONER ADLESTEIN: I sure am.

2 Can you hear me?

3 COMMISSIONER ABERNATHY: Yes. We can  
4 hear you just fine. So, if you want to make a  
5 few opening remarks, I appreciate you taking  
6 the time to get on the phone. And I'm sorry  
7 you couldn't be with us today.

8 COMMISSIONER ADLESTEIN: Thank you,  
9 Commissioner Abernathy. You've done a great  
10 job of organizing this, together with the  
11 Joint Board's staff, folks from the Wireline  
12 Competition Bureau here, and, of course, our  
13 excellent state staff.

14 I think this is a great en banc  
15 hearing you've got organized. I'm really  
16 disappointed I can't be there. I really wish  
17 I could be in Nashville today, not just  
18 because I love the Grand Ole Opry. I had my  
19 tickets; I was ready to go. But there's some  
20 pressing business here in Washington that you  
21 may have heard about that keeps me from being  
22 there. But I'm listening to as much of this  
23 by audio as I possibly can but, as you  
24 indicated, I might get called away. There's  
25 quite a few things going on here today.



1           I do want to join you, Chairman  
2   Abernathy, in thanking Bob Rowe and Lila Jaber  
3   for their contributions to the Joint Board. I  
4   really enjoyed working with both of them so  
5   much, and I really appreciated the expertise  
6   and the contributions that they brought to  
7   this Joint Board. They've been tremendous and  
8   we're going to miss them dearly. But I'm also  
9   very excited about working with Commissioners  
10   Smith and Baum going forward. I think they're  
11   going to make a great addition, but we'll miss  
12   our departing colleagues dearly.

13           I'd also like to extend a particular  
14   thanks to the remarkable group of panelists  
15   who made the time to participate today. I'm  
16   glad to see that Rich Coit will be there from  
17   South Dakota so that South Dakota will be  
18   represented even if I can't make it. All the  
19   panelists, including Rich and the others,  
20   bring a rich wealth of experience that will  
21   really enrich us on these issues. And I think  
22   together they reflect a diversity of issues  
23   that we've got to consider in this proceeding.

24           While the details at issue in this  
25   proceeding are really complicated, I can't

1   overemphasize the importance of the task at  
2   hand. I've spoken a lot about these issues,  
3   and clearly Congress has recognized the  
4   importance of ensuring that we maintain a  
5   specific, sufficient, and predictable  
6   universal support mechanism. Putting that  
7   directive into concrete terms is a lot of work  
8   for us and will have an impact going forward  
9   for generations to come on the ability of  
10   providers in rural America to deliver high  
11   quality, innovative services. And it's going  
12   to affect the overall economy in development  
13   of the marketplace in those areas.

14           I'm really looking forward to the  
15   discussions here. What I can't hear today  
16   I'll look at the record. And, once again, I  
17   really want to send my thanks to all of you  
18   involved in the effort to put this together  
19   and tackle these important issues today.

20           COMMISSIONER ABERNATHY: Thank you  
21   very much. And we completely understand and,  
22   needless to say, this is just the beginning of  
23   what these issues -- it's just the opening  
24   round of comments. So, stay tuned, Jonathan,  
25   and good luck.

1           And, I think we'll start with you,  
2 Commissioner Martin.

3           COMMISSIONER MARTIN: Thank you.  
4 Thank you for organizing the panel and thank  
5 all the panelists for making the trip all of  
6 the way out here and for extending their stay  
7 here at NARUC.

8           I also do want to thank and begin by  
9 recognizing the efforts of Bob Rowe and Lila  
10 Jaber over the last few years. They've  
11 certainly been instrumental in a lot of the  
12 decisions we've done. I personally have  
13 benefitted greatly from their insight and  
14 their wisdom as we try to address several of  
15 these contentious issues. And I think they've  
16 done a pretty good job of public service, not  
17 only on this Joint Board but in serving the  
18 citizens of their states and serving all of  
19 the citizens in the country by their efforts  
20 here. So, I do want to wish them the best of  
21 luck, and we'll continue to miss both of you  
22 as we go forward.

23           As Jonathan mentioned, Congress has  
24 required the Commission to ensure that we have  
25 a sufficient universal service support

1 mechanism to make sure that all of rural  
2 America and all of rural Americans have the  
3 ability to obtain service at rates that are  
4 relatively comparable to those of citizens  
5 living in urban areas. And I think that one  
6 of the core goals during my time at the  
7 Commission has been to ensure that we have the  
8 connectivity to the 21st century networks for  
9 all Americans, including those who live in  
10 rural areas.

11 Today's en banc is certainly going to  
12 address some of the contentious and critical  
13 issues for how we go about achieving that goal  
14 and the future of universal service and the  
15 support for those networks.

16 As I have said before and in private  
17 meetings with many of you and in some of my  
18 previous statements, I do have concerns and am  
19 troubled by some of the Commission's potential  
20 to request that the Joint Board consider  
21 whether a forward-looking economic cost model  
22 is more appropriate than for high cost and for  
23 non-rural telephone companies. When the  
24 Commission explicitly adopted that mechanism  
25 for the non-rural companies, they explicitly

1     stated that might not be an appropriate  
2     mechanism for rural companies.

3             And, indeed, the Rural Task Force has  
4     made clear that -- one of their cornerstone  
5     concepts of their recommendation was the  
6     decision to recommend the continued use of the  
7     embedded cost mechanism rather than the  
8     Commission's forward-looking cost model for  
9     sizing universal support for rural carriers.  
10    And I continue to be concerned about the  
11    implications for them.

12            So, I'm anxious to have the dialogue  
13    with the panel today to further understand  
14    their views and the options of the Commission.  
15    And I equally think that the second panel with  
16    regard to ETCs will be an important discussion  
17    for the Joint Board. Again, I think that many  
18    of the issues related to the ETCs have been  
19    widely discussed among the Joint Board, and I  
20    think there's many concerns about the level of  
21    scrutiny that the Commission should be  
22    applying to the ETCs and also how we should be  
23    distributing resources there as well. So, I  
24    think we will have a spirited, I'm sure,  
25    debate on the first and second panel.

1                   With that, I'll turn it over to my  
2 other colleagues.

3                   COMMISSIONER ABERNATHY: Thank you,  
4 Commissioner Martin.

5                   Now, we'll hear from Commissioner  
6 Dunleavy.

7                   COMMISSIONER DUNLEAVY: Thank you  
8 very much, Madam Chairman.

9                   And I'd like to echo, of course,  
10 Commissioner Abernathy comment's and  
11 Commissioner Adelstein's comments and  
12 Commissioner Martin's comments relative to the  
13 contributions that were made by both Bob Rowe  
14 and Lila Jaber. I'll tell you that I for one  
15 will sorely miss the good counsel and help  
16 that was provided so freely and generously on  
17 every question. They were never too busy to  
18 help out wherever they were asked. They will  
19 be sorely missed.

20                   And I think we are, likewise, very  
21 fortunate to have the opportunity to be joined  
22 here by Elliott Smith from Iowa, who is doing  
23 a bang-up job on the ICC task force for the  
24 telcom committee and NARUC; and, of course,  
25 Ray Baum, who will bring -- who does bring a

1       tremendous amount to the table.

2               Lila and Bob are big shoes to fill,  
3       but I'm sure that over time that that will --

4               COMMISSIONER JABER:   His are bigger.

5               COMMISSIONER DUNLEAVY:  -- that will  
6       take place.

7               In any event, I think that it  
8       probably goes without saying that none of us  
9       here today questions the importance of  
10      universal service and the issues before us.  
11      I'm sure, too, that we would all agree that  
12      our goal is, as the Act directs us, to ensure  
13      that comparable telecommunications services  
14      are available in all regions of the country at  
15      reasonably comparable rates.

16              Now, we might even all agree that we  
17      want new telecommunications capabilities, new  
18      technology to become available in all areas in  
19      a very timely fashion.  Those are all in  
20      agreement.  And there is, as we have heard  
21      repeatedly at a variety of meetings and panels  
22      at the NARUC convention during the week, that  
23      there is a growing concern over the  
24      sustainability of the current universal  
25      service regime in general and its high-cost

1 mechanism in particular. And this suggests to  
2 me that perhaps more of the same is simply not  
3 an acceptable answer. Therefore, we're going  
4 to need to find and agree on a new approach to  
5 achieving our common goal.

6 Now, unfortunately, after reviewing  
7 the positions offered and the comments in this  
8 proceeding and the statements of -- some  
9 statements of some of our panelists, I sense  
10 that we haven't yet made great progress  
11 towards finding and agreeing on any new  
12 approaches. Indeed, I have the sense that we  
13 don't even agree on the role high-cost support  
14 should play in achieving universal service.

15 And so, I sincerely hope that today's  
16 en banc will give us the opportunity to find  
17 and explore some new ideas. And I hope that  
18 instead of what so often happens here in our  
19 world that instead of finger pointing and name  
20 calling, that we could use our limited time  
21 together to discover areas of agreement that  
22 will help all of us along our path to  
23 universal service reform and achievement of  
24 all of our common goals.

25 And now, in the interest of



1 preserving time and knowing that I've already  
2 said too much, I will thank you, Madam  
3 Chairman, and turn it over.

4 COMMISSIONER ABERNATHY: And now I  
5 want to welcome Commissioner Bob Nelson to his  
6 first en banc. Thanks for joining us. He's  
7 been, already, an important part of the team  
8 as we prepared for this proceeding.

9 COMMISSIONER NELSON: Thank you. And  
10 I do also want to extend my remarks regarding  
11 Lila Jaber and Bob Rowe. I echo the  
12 sentiments of Commissioners Abernathy, Martin,  
13 Adelstein, and Dunleavy. They led the way for  
14 me and others to join this Joint Board,  
15 including Elliott Smith and Ray Baum, and have  
16 set very fine examples for us to follow.

17 In terms of what we're going to be  
18 hearing today, I agree with Tom that, you  
19 know, perhaps the written comments so far have  
20 not coalesced behind a unified approach to the  
21 issues that have been teed up in this proceeding.  
22 But I am certainly eager to hear the thoughts  
23 of the panelists today regarding the  
24 sustainability of the high-cost fund and how  
25 that can be best addressed through the goals